

**Application No.** : 09/550,545  
**Filed** : April 14, 2000  
**Amdt. Dated** : December 9, 2004

### **REMARKS/ARGUMENTS**

The Applicants thank the Examiner for the Examiner's careful and thoughtful examination of the present application. By way of summary, Claims 1-24 were pending in this application. In the present amendment, the Applicants have canceled Claims 23-24 without prejudice or disclaimer, amended Claims 1, 3, and 5-22, and added new Claims 25-52. Claims 2 and 4 remain as originally filed. Accordingly, Claims 1-22 and 25-52 remain pending for consideration.

#### **A. Information Disclosure Statement**

Attached to the Office Action, the Examiner included a copy of Applicants' filed Information Disclosure Statement and accompanying Form PTO-1449 citing four (4) references mailed January 16, 2002, a copy of which is attached hereto for convenience. The Applicants note that the Examiner did not initial any of the cited references on Form PTO-1449. Accordingly, the Applicants respectfully request the Examiner to initial the cited references and return the initialed Form PTO-1449 in a next communication from the Patent Office.

#### **B. Rejection of Claims 15-19 and 22-24 Under 35 U.S.C. § 102**

The Office Action rejected Claims 15-19 and 22-24 under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,356,971, issued to Katz et al. ("Katz"). The Applicants respectfully disagree with the Examiner's rejections and respectfully traverse this rejection because the Katz fails to identically teach every element of the claims. See M.P.E.P. § 2131 (stating that in order to anticipate a claim, a prior art reference must identically teach every element of the claim).

##### **1. Claim 15**

The Applicants respectfully submit that the Claim 15 as previously pending is patentably distinguished over Katz as well as the other cited references or any combination thereof. Claim 15, however, has been amended without altering its scope in order to clarify the features of the Applicants' inventions. These claim amendments are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments.

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Applicants respectfully submit that Katz fails to teach or suggest every element of amended Claim 15. For example, amended Claim 15 includes "a hierarchical graphical library tree that is displayed on the output device, the hierarchical graphical library tree graphically displaying the nodes, one or more of the nodes in the hierarchical graphical library tree having a plurality of children nodes that relate to the node and/or one or more music track(s), each node in the plurality of nodes being represented by either a graphical image or text," which is not disclosed in Katz. Thus, Applicants respectfully submit that Claim 15 is patentably distinguished over the cited reference. Applicants respectfully request the Examiner to withdraw the rejection of Claim 15 under 35 U.S.C. § 102(b) and to pass Claim 15 to allowance.

**2. Claims 16-19**

Claims 16-19 depend from Claim 15 and include all of the limitations of Claim 15. Applicants have amended Claims 16-19 to conform with the amendments made to Claim 15. Applicants respectfully submit that Katz fails to teach or suggest every element of Claims 16-19. For example, Claims 16-19 include "a hierarchical graphical library tree that is displayed on the output device, the hierarchical graphical library tree graphically displaying the nodes, one or more of the nodes in the hierarchical graphical library tree having a plurality of children nodes that relate to the node and/or one or more music track(s), each node in the plurality of nodes being represented by either a graphical image or text," which is not disclosed in Katz, as discussed with respect to Claim 15. Thus, Applicants respectfully submit that Claims 16-19 are patentably distinguished over the cited reference. Applicants respectfully request the Examiner to withdraw the rejection of Claims 16-19 under 35 U.S.C. § 102(b) and to pass Claims 16-19 to allowance.

**3. Claim 22**

Amended Claim 22 depends from Claim 20 and includes all of the limitations of Claim 20. Applicants respectfully submit that Katz fails to teach or suggest every element of Claim 22. For example, Claim 22 includes "providing an indication to reformat the music item into a second predetermined format in accordance with the

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retrieved attribute information," which is not disclosed in Katz, as discussed with respect to Claim 20 below. Thus, Applicants respectfully submit that Claim 22 is patentably distinguished over the cited reference. Applicants respectfully request the Examiner to withdraw the rejection of Claim 22 under 35 U.S.C. § 102(b) and to pass Claim 22 to allowance.

**4. Claims 23-24**

Applicants have cancelled Claims 23-24 without prejudice or disclaimer, thus the Examiner's rejection of Claims 23-24 is now moot.

**C. Rejection of Claims 1-3 and 20-21 Under 35 U.S.C. § 103**

The Office Action rejected Claims 1-3 and 20-21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,594,740, issued to Fukuda ("Fukuda"). The Applicants respectfully traverse this rejection because Fukuda fails to teach or suggest the elements of the claims. See M.P.E.P. § 2143 (stating that in order to establish a *prima facie* case of obviousness for a claim, the prior art references must teach or suggest all the claim limitations).

**1. Claim 1**

The Applicants respectfully submit that the Claim 1 as previously pending is patentably distinguished over Fukuda as well as the other cited references or any combination thereof. Claim 1, however, has been amended without altering its scope in order to clarify the features of the Applicants' inventions. These claim amendments are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments.

Applicants respectfully submit that Fukuda fails to teach or suggest every element of amended Claim 1. For example, amended Claim 1 includes "a music controller program code operative to be executed on the computer device for managing at least one music item, the music controller program code operative when executed to retrieve attribute information from a music renderer when the music renderer is coupled with the computer device, wherein the attribute information provides an indication of attributes of the music renderer during the operation of the music controller program

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code, the music controller program code operative to change the data format or compression of the music item as a function of the retrieved attribute information," which is not disclosed in Fukuda. Thus, Applicants respectfully submit that Claim 1 is patentably distinguished over the cited reference. Applicants respectfully request the Examiner to withdraw the rejection of Claim 1 under 35 U.S.C. § 103(a) and to pass Claim 1 to allowance.

**2. Claims 2-3**

Claims 2-3 depend from Claim 1 and include all of the limitations of Claim 1. Claim 3 has been amended to fix a typographical error. Applicants respectfully submit that Fukuda fails to teach or suggest every element of Claims 2-3. For example, Claims 2-3 include "a music controller program code operative to be executed on the computer device for managing at least one music item, the music controller program code operative when executed to retrieve attribute information from a music renderer when the music renderer is coupled with the computer device, wherein the attribute information provides an indication of attributes of the music renderer during the operation of the music controller program code, the music controller program code operative to change the data format or compression of the music item as a function of the retrieved attribute information," which is not disclosed in Fukuda, as discussed with respect to Claim 1. Thus, Applicants respectfully submit that Claims 2-3 are patentably distinguished over the cited reference. Applicants respectfully request the Examiner to withdraw the rejection of Claims 2-3 under 35 U.S.C. § 103(a) and to pass Claims 2-3 to allowance.

**3. Claim 20**

The Applicants respectfully submit that the Claim 20 as previously pending is patentably distinguished over Fukuda as well as the other cited references or any combination thereof. Claim 20, however, has been amended without altering its scope in order to clarify the features of the Applicants' inventions. These claim amendments are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments.

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Applicants respectfully submit that Fukuda fails to teach or suggest every element of amended Claim 20. For example, amended Claim 20 includes "providing an indication to reformat the music item into a second predetermined format in accordance with the retrieved attribute information," which is not disclosed in Fukuda. Thus, Applicants respectfully submit that Claim 20 is patentably distinguished over the cited reference. Applicants respectfully request the Examiner to withdraw the rejection of Claim 20 under 35 U.S.C. § 103(a) and to pass Claim 20 to allowance.

**4. Claim 21**

Claim 21 depends from Claim 20 and includes all of the limitations of Claim 20. Applicants respectfully submit that Fukuda fails to teach or suggest every element of Claim 21. Claim 21, however, has been amended without altering its scope in order to clarify the features of the Applicants' inventions. These claim amendments are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments. For example, Claim 21 includes "providing an indication to reformat the music item into a second predetermined format in accordance with the retrieved attribute information," which is not disclosed in Fukuda, as discussed with respect to Claim 20. Thus, Applicants respectfully submit that Claim 21 is patentably distinguished over the cited reference. Applicants respectfully request the Examiner to withdraw the rejection of Claim 21 under 35 U.S.C. § 103(a) and to pass Claim 21 to allowance.

**D. Rejection of Claims 4-12 and 14 Under 35 U.S.C. § 103**

The Office Action rejected Claims 4-12 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Fukuda in view of Katz. The Applicants respectfully traverse this rejection because Fukuda, alone or in combination with Katz, fails to teach or suggest the elements of the claims. See M.P.E.P. § 2143 (stating that in order to establish a *prima facie* case of obviousness for a claim, the prior art references must teach or suggest all the claim limitations).

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**1. Claims 4-12 and 14**

Claims 4-12 and 14 depend from Claim 1 and include all of the limitations of Claim 1. Applicants have amended Claims 5-12 and 14 to conform with the amendments made to Claim 1. Applicants respectfully submit that Fukuda, alone or in combination with Katz, fails to teach or suggest every element of Claims 4-12 and 14. For example, Claims 4-12 and 14 include "a music controller program code operative to be executed on the computer device for managing at least one music item, the music controller program code operative when executed to retrieve attribute information from a music renderer when the music renderer is coupled with the computer device, wherein the attribute information provides an indication of attributes of the music renderer during the operation of the music controller program code, the music controller program code operative to change the data format or compression of the music item as a function of the retrieved attribute information," which is not disclosed in Fukuda, alone or in combination with Katz, as discussed with respect to Claim 1. Thus, Applicants respectfully submit that Claims 4-12 and 14 are patentably distinguished over the cited references. Applicants respectfully request the Examiner to withdraw the rejection of Claims 4-12 and 14 under 35 U.S.C. § 103(a) and to pass Claims 4-12 and 14 to allowance.

**E. Rejection of Claim 13 Under 35 U.S.C. § 103**

The Office Action rejected Claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Fukuda in view of U.S. Patent No. 6,115,531, issued to Yanagihara ("Yanagihara"). The Applicants respectfully traverse this rejection because Fukuda, alone or in combination with Yanagihara, fails to teach or suggest the elements of the claims. See M.P.E.P. § 2143 (stating that in order to establish a *prima facie* case of obviousness for a claim, the prior art references must teach or suggest all the claim limitations).

**1. Claim 13**

Claim 13 depends from Claim 1 and includes all of the limitations of Claim 1. Applicants have amended Claim 13 to conform with the amendments made to Claim 1.

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Applicants respectfully submit that Fukuda, alone or in combination with Yanagihara, fails to teach or suggest every element of Claim 13. For example, Claim 13 includes "a music controller program code operative to be executed on the computer device for managing at least one music item, the music controller program code operative when executed to retrieve attribute information from a music renderer when the music renderer is coupled with the computer device, wherein the attribute information provides an indication of attributes of the music renderer during the operation of the music controller program code, the music controller program code operative to change the data format or compression of the music item as a function of the retrieved attribute information," which is not disclosed in Fukuda, alone or in combination with Yanagihara or Katz, as discussed with respect to Claim 1. Thus, Applicants respectfully submit that Claim 13 is patentably distinguished over the cited references. Applicants respectfully request the Examiner to withdraw the rejection of Claim 13 under 35 U.S.C. § 103(a) and to pass Claim 13 to allowance.

**F. New Claims**

New Claims 25-52 have been added to more fully define the Applicant's invention and are believed to be fully distinguished over the prior art of record.

**G. Conclusion**

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, amendments to the claims, the reasons therefore, and arguments in support of the patentability of the pending claims are presented above. In light of the above amendments and remarks, Applicant specifically requests reconsideration and withdrawal of the outstanding rejections. Applicant respectfully requests the Examiner to withdraw the rejection(s) of Claims 1-22 and to pass Claims 1-22 and 25-52 to allowance. In view of the forgoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If the Examiner has any questions, Applicant invites the Examiner to call the undersigned directly.

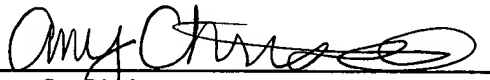
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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: December 9, 2004

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### **SUMMARY OF INTERVIEW**

The Applicants would like to thank the Examiner for the interview extended to the Applicants' counsel, Steven Stewart, on November 3, 2004. During the interview, the Applicants' counsel clarified patentably distinguishing features of the invention and discussed Claims 1, 15, and 22. In light of the interview and the Applicants' response set forth herein, the Applicants respectfully request reconsideration of the pending claims.